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CHILD CARE AND DEVELOPMENT FUND PROGRAM INSTRUCTION

To: Tribes consolidating child care programs under Public Law (Pub. L.) 102-477. This Program Instruction only applies to Tribes currently operating or planning to operate an employment, training, and related services program under Pub. L. 102-477.

Purpose: To provide information on the procedures to consolidate the Child Care and Development Fund (CCDF) program with other employment and training funding sources under a Pub. L. 102-477 Plan.

References: The Child Care and Development Block Grant Act of 1990 (CCDBG) as amended (42 U.S.C. 9858 *et seq.*); section 418 of the Social Security Act (42 U.S.C. 618); 45 CFR Parts 98 and 99; and

The Indian Employment, Training, and Related Services Demonstration Act of 1992, as amended (Pub. L. 102-477) (25 U.S.C 3401 *et seq.*).

Background: The Indian Employment, Training, and Related Services Demonstration Act of 1992, as amended (Pub. L. 102-477) was enacted to:

- Demonstrate how Indian tribal governments can integrate the employment, training, and related services they provide in order to improve the effectiveness of those services;
- Reduce joblessness in Indian communities; and
- Serve tribally-determined goals consistent with the policies of self-determination.

In accordance with Pub. L. 102-477, eligible tribal applicants may choose to streamline tribal services by submitting a consolidated plan for employment, training, and related services to the U.S. Department of Interior (DOI). Eligible applicants may include the CCDF in their 102-477 Plan. The CCDF is comprised of two funding sources:

- Discretionary Funds – funding that is provided under the Child Care and Development Block Grant (CCDBG) Act, as amended; and
- Tribal Mandatory Funds – funding that is provided to eligible Tribes and

tribal organizations under Section 418 of the Social Security Act.

Tribes that elect to consolidate their CCDF funds under a 477 Plan are required to operate comprehensive CCDF programs. By applying for CCDF funds, a Tribe agrees to follow the provisions of the CCDBG Act of 1990, as amended, and applicable regulations at 45 CFR 98 and 99, including the obligation and liquidation periods at 45 CFR 98.60(e). However, in contrast to the required CCDF application and plan process, Tribes that consolidate CCDF funds under a 477 Plan are permitted to submit abbreviated applications and plans for CCDF funding.

**CCDF Tribal
102-477 Eligibility:**

Pursuant to 45 CFR 98.62, a Tribe is eligible to receive CCDF funds if the Tribe is federally recognized and the tribal population includes at least 50 children under age 13.

A Tribe with fewer than 50 children under age 13 may participate in a consortium of eligible Tribes. In order to be eligible to receive CCDF funds on behalf of its member Tribes, a consortium must:

- Consist of Tribes that meet the eligibility requirements for the CCDF program or that would meet the eligibility requirements if the Tribe had at least 50 children under age 13; and
- Demonstrate it has authorization from each participating Tribe to receive CCDF funds on behalf of the Tribe.

Membership Changes – It is the responsibility of a tribal consortium to notify the Administration for Children and Families (ACF) of any changes in its membership for CCDF funding purposes during the approved plan period. For example, if a new Tribe joins a tribal consortium to receive Fiscal Year (FY) 2014 CCDF funds, or if a current tribal consortium member elects not to receive FY 2014 CCDF funds through that tribal consortium, these changes must be conveyed to ACF in writing by the tribal consortium.

**The 102-477
Process:**

To receive CCDF funding under a consolidated 102-477 Plan, all tribal grantees and tribal applicants must: 1) be eligible to receive CCDF funding (see Eligibility Section of this Program Instruction); and 2) submitted a consolidated 102-477 Plan to DOI that includes the CCDF program. Although 102-477 Plan cover multi-year periods, current 102-477 grantees and new tribal applicants must apply annually during the Plan Period for CCDF funds by submitting a Child Count Declaration.

**Annual 102-477
Application
Requirement:**

An annual Child Count Declaration (Pub. L. 102-477 Tribes) (Attachment A) must be submitted to receive FY 2014 CCDF funds. By submitting a signed Child Count Declaration, the Tribe is making application for FY 2014 CCDF funds.

By applying for FY 2014 CCDF funds, a Tribe agrees to follow the provisions of the CCDBG Act and applicable regulations at 45 CFR Parts 98 and 99.

Current grantees that apply for FY 2014 funds continue to be required to meet the assurances and certifications provided in the 102-477 Plan for the remainder of the plan period. A new tribal applicant must include the required assurances and certifications as part of its Plan submittal (see Attachment B).

Tribal Counts:

ACF will calculate grant awards based on a self-certified Child Count Declaration for the number of children under age 13 (i.e., up through age 12) who reside on or near the reservation or service area. Please keep in mind the following information as you prepare annual tribal child counts for CCDF funds:

- Tribes have flexibility in defining “Indian child,” and may include children from other Tribes, provided that such Tribes are federally recognized, consistent with the CCDBG Act’s definition of Indian Tribe.
- “Service area” must be “on or near the reservation,” and therefore must be within a reasonably close geographic proximity to the delineated borders of a Tribe’s reservation (with the exception of Tribes in Alaska, California, and Oklahoma). Tribes that do not have reservations must establish service areas within reasonably close geographic proximity to the area where the Tribe’s population resides. ACF will not approve an entire State as a Tribe’s service area.

The Child Count Declaration must certify the number of Indian children (as defined in the CCDF section of the 102-477 Plan) under age 13 who reside on or near the reservation or service area. The Child Count Declaration is provided as Attachment A.

PLEASE BE ADVISED: The Tribal Lead Agency may not count any children who are included in the child count of another CCDF Tribal Lead Agency. To ensure unduplicated child counts, a Tribal Lead Agency is required to confer with all other CCDF Tribal Lead Agencies that have overlapping or neighboring service areas.

Tribal Lead Agencies are advised that ACF will not accept Child Count Declarations based on child counts that were conducted prior to July 1 of the previous year. For FY 2014 funding, the child count of children under age 13 must be completed **no later than** June 30, 2013, and **no earlier than** July 1, 2012.

Special Instructions for Tribal Consortia:

- Individual Child Counts Required - A tribal consortium must submit an individual Child Count Declaration for each participating Tribe. An individual authorized to act for the Tribe must sign each individual Child Count Declaration. A tribal consortium must also provide a summary section listing the name of each participating Tribe, individual account associated with that Tribe and the total child count for the entire consortium.
- "Special Rule for Indian Tribes in Alaska" - Only the Metlakatla Indian Community of the Annette Islands Reserve and the 12 Alaska Native Regional Nonprofit Corporations are eligible to receive Tribal Mandatory Funds.

Alaska Native Regional Nonprofit Corporations will have to provide a separate child count certification for Discretionary Funding purposes. This count will consist of its self-certified Tribal Mandatory Funding count, minus the child count number for any Alaska tribal grantee in its Region that applies directly for Discretionary Funding. In instances where a

Regional Corporation has separate child counts for Discretionary and Tribal Mandatory Funds, both counts may be reported on the Child Count Declaration (Attachment A).

**102-477 Plan
Requirements:**

The CCDF program may be incorporated into a Pub.L. 102-477 Plan that covers multi-year periods. If an applicant elects to include CCDF in a consolidated 102-477 Plan, the following CCDF requirements must be included in the 102-477 Plan:

1. A statement of intent to administer the CCDF program under a Pub. L. 102-477 consolidated plan.
2. A description of how the CCDF services will be integrated and delivered with the employment and training programs included in the 102-477 Plan, and the results expected.
3. The agency or agencies of the tribal government (or tribal consortium) to be involved in the delivery of CCDF services under the plan.

Note: if the CCDF Lead Agency changes during the approved plan period, the grantee must submit a written notification of this change to DOI.

4. A description of results of the Tribal Lead Agency coordination activities with agencies responsible for: 1) health (including the agency responsible for immunizations), 2) education, 3) employment services or workforce development, and 4) the Temporary Assistance for Needy Families (TANF) agency (State and/or Tribal TANF agency).
5. A description of the public hearing process held to provide members of the tribal community (or communities in the case of a tribal consortium) an opportunity to comment on the proposed CCDF activities under the consolidated 102-477 Plan.
6. A copy of the payment rates for child care services and a summary of the facts relied on by the Tribal Lead Agency to determine that the attached rates are sufficient to ensure equal access to comparable child care services provided to children whose parents are not eligible to receive child care assistance under the CCDF and other governmental programs.

At a minimum the Tribal Lead Agency must; 1) include the date of the local market rate survey(s), 2) describe how the payment rates are adequate to ensure equal access based on the results of the required local market rate survey (i.e., the relationship between the attached payment rates and the market rates observed in the survey), 3) indicate if the payment rates are based on the State survey(s) and identify the State, and 4) Non-exempt Tribes must explain how the choice of the full range of providers is made available to parents if the payment rates do not reflect individual rates for the full range of providers -- center-based, group home, family and in-home care.

Note: A Tribal Lead Agency may base its payment rates on the State's market rate survey rather than conducting its own survey if the Tribe's reservation or tribal service area is included in the State's survey.

7. A copy of the Tribe's Median Income Matrix. Indicate if the Tribe's definition of Grantee Median Income (GMI) is based on Tribal Median Income or State Median Income and complete column (a) and (b) of the matrix below based on the definition of GMI. Indicate Income Eligibility not to exceed 85% of the Grantee Median Income (GMI) in column (b) for a family of the same size. Complete column (c) **ONLY IF the Tribal Lead Agency is using income eligibility limits lower than 85% of the GMI – identify percentage used in calculation.**

Family Size	(a) 100% of GMI (For calculation purposes only) (\$/month)	(b) 85% of GMI (\$/month)	(c) If GMI is less than 85%, identify percentage: _____% (\$/month)
1			
2			
3			
4			
5			

8. A copy of a sliding fee scale that provides for cost sharing (co-payment) by families and is based on income and family size. A grantee may waive contributions from families whose incomes are at or below the poverty level for a family of the same size, or may apply different sliding fee scales.

Note: A Tribe cannot use Federal CCDF dollars to pay the parental contribution (co-payment) on behalf of an Indian family who is receiving a CCDF subsidy from a State or Tribe.

9. Definitions for 1) Indian child, and 2) Indian reservation or tribal service area. Tribes have broad latitude in defining these terms that are used to determine eligibility. A Tribes Child Count Declaration -- required in the annual CCDF application -- is based on the definition of these terms.
10. Tribes are asked to describe their quality efforts – including how the Tribe learns about the quality of care currently offered by providers, the training and technical assistance needs of providers, the quality improvement activities and goals to improve quality of care.
11. Descriptions must be included regarding the Tribe's Health and Safety Requirements for all categories of care (center, group home, family and in-home) offered by the Tribe in the follow areas:

- prevention and control of infectious disease, including immunizations;
- building and physical premises safety; and
- health and safety training.

In addition, if the Tribe elects to exempt relative providers (grandparents, great grandparents, aunts, uncles, or siblings who live in a separate residence from the child in care and/or in-home providers (care provided in the child's own home) from health and safety requirements, please indicate which providers if any are exempt.

12. A consortium must submit a demonstration (e.g., a tribal resolution) from each member Tribe that authorizes the consortium to receive CCDF funds on its behalf for the duration of the plan period.
13. For Tribes who operate a certificate program that offers parental choice from a full range of providers (i.e. center-based, group home, family child care, and in-home care), provide a description of the program.
14. Indicate whether the Tribe will be using CCDF funds for construction or major renovation project(s). Note: CCDF requires the submission of a separate application to request and obtain approval of a construction or renovation project.
15. A signed CCDF Child Count Declaration (Attachment A).
16. Attach CCDF Assurances and Certifications (Attachment B).

Plan Waivers:

Section 7 of Pub. L. 102-477, as amended, authorizes the Secretary of the Department of Health and Human Services to waive any statutory provision, regulation, policy, or procedures requested by a Tribe, as long as the waiver is consistent with the purpose of Pub. L. 102-477 or with provisions of the CCDBG Act.

To obtain a waiver, the 102-477 Plan must:

- Identify the specific statutory provision, regulation, policy, or procedure;
- Justify the need for the waiver; and
- Explain what the Tribe will use to replace the existing statutory provision, regulation, policy, or procedure, if applicable.

Waivers will be granted on a case-by-case basis for each Plan. Decisions regarding waivers are at the discretion of the Secretary. Blanket waiver requests are not acceptable. See Attachment C for a list of statutory and regulatory requirements that will not be waived.

Plan Approvals:

ACF's approval is contingent on several factors, including:

- Receipt of complete Plans, and ACF's requested revisions, if applicable, in a timely fashion; and
- Have no outstanding CCDF program (ACF-700) or financial (ACF- 696-T) reports (applicable only to those Tribes submitting initial 102-477 Plans).

ACF recognizes that a number of small CCDF grantees do not have the

**Exempt vs.
Non-Exempt:**

necessary infrastructure to support certain CCDF requirements, such as a certificate program. Similarly, in many small rural communities child care options are often limited. Consequently, additional flexibility has been provided for smaller Tribes and tribal organizations by “exempting” them from certain CCDF requirements (see 45 CFR 98.83(f)). Specifically, exempt Tribes are not required to operate a certificate program, or to spend at least 4 percent on quality activities. However, we encourage all Tribes to invest in quality activities to improve the health and safety of child care in tribal communities.

Tribal Lead Agencies with CCDF allocations equal to or greater than \$500,000 for a fiscal year are considered non-exempt grantees. Non-exempt Tribal Lead Agencies must:

- 1) use for quality activities at least 4 percent of the aggregate CCDF funds expended for a fiscal year, and
- 2) operate a certificate program that offers parental choice from a full range of providers (i.e., center-based, group home, family and in-home care).

A Tribal Lead Agency that moves from the exempt to non-exempt category has a phase-in period of 1 year to meet the CCDF non-exempt requirements. The 1-year period begins with the issuance date of the grant award letter indicating that a Tribe’s final allocation is equal to or greater than \$500,000. A non-exempt Tribal Lead Agency must describe how it is meeting non-exempt requirements in its 102-477 Plan.

**Funding Estimates
and Allocation
Formulas:**

Discretionary Funds will include a base amount of \$20,000 plus a per child amount for each Tribe or tribal consortium with a minimum of 50 children.

Tribal Mandatory Funds are calculated solely on a per child basis and do not include a base amount.

The per child amount for both Discretionary and Tribal Mandatory Funds depends upon the total number of children in all participating Tribes, thus ACF cannot calculate in advance the exact per child amount until all child counts have been submitted and the FY 2014 budget becomes available. For planning purposes, current CCDF Tribal grantees should use their funding amounts from the FY 2013 as an estimate. A **new** Tribe should use the base amount plus approximately \$50 per child to estimate its allotment for Discretionary Funding, and should use approximately \$85 per child to estimate its allotment for Tribal Mandatory Funding.

A tribal consortium should estimate its allotment for Discretionary Funding for each of its members by calculating a portion of the base amount that is equivalent to the ratio of the number of children in each member Tribe to 50, plus the additional per child amount. For example, a Tribe with 49 children is allotted 49/50ths of \$20,000, or \$19,600. The per child amount is then multiplied by 49 and added to the \$19,600 base amount.

Important Note: These amounts are provided for the purpose of estimating the allotments that will become available beginning October 1, 2013, and may increase or decrease when funding appropriations and updated data become available before the final grant awards are issued.

**Discretionary
Targeted Funds:**

The FY 2014 allocations may include targeted funds for school-age care and resource and referral activities. This amount must be spent on resource and referral activities and/or school-age care. The amount of targeted funds for resource and referral activities and school-age care is based on \$500 per Tribe plus a per child amount.

Note to Non-Exempt Tribal Lead Agencies: The targeted funds are to be used in addition to the “not less than 4 percent” required to be spent on activities that improve the quality and availability of child care.

**Administrative
Costs:**

Tribal Lead Agencies are reminded that no more than 15 percent of the aggregate CCDF funds expended from each year’s allotment may be used for administrative costs. Tribal Lead Agencies are advised to review the CCDF regulations at 45 CFR 98.52 for a discussion of administrative costs.

Note: the Discretionary Funds base amount is neither subject to the 15 percent limitation, nor included in the calculation for the 15 percent limitation.

**Construction
and Renovation
Under a
102-477 Plan:**

To use CCDF funds for construction or major renovation projects, all Tribal Lead Agencies -- including Tribes with approved 102-477 Plans – are required to follow ACF’s construction and renovation application procedures (Program Instruction CCDF-ACF-PI-2013-01). This Program Instruction is available on the Office of Child Care’s website at:

<http://www.acf.hhs.gov/programs/occ/resource/pi2013-01>

Early in the planning process, Tribes are advised to contact their appropriate ACF Regional Office (Attachment D). If a Tribe constructs or renovates more than one facility, it must seek ACF approval for each project (even if the projects use identical plans and specifications).

Deadlines:

All CCDF Child Count Declarations (and plans, if applicable) must be postmarked or hand delivered to the U.S. Department of the Interior no later than July 1, 2013. Any applications and plans postmarked after that date will not be accepted. Faxed copies will not be accepted.

Electronic Format:

The required Child Count Declaration is available in electronic format from ACF Regional Offices (see Attachment D) and on the Office of Child Care’s website at: http://www.acf.hhs.gov/programs/ccb/law/tribal_topic_application.htm.

**Submitting the
Materials:**

The original and 1 copy of the materials must be mailed
or hand-delivered to:

U.S. Department of the Interior
Office of Indian Energy and
Economic Development
Division of Workforce Development
1951 Constitution Ave., NW
Mail Stop 20 SIB
Washington, DC 20240

An additional copy must
also be sent to:

ACF Regional Office
Attn: Child Care Regional Manager
(Attachment D)

Reporting Requirements:

CCDF tribal grantees with an approved 102-477 Plan will receive their CCDF funding through DOI. Therefore, program and financial reporting of CCDF funds awarded under a 102-477 consolidated plan will be made to DOI.

However, the expenditure and obligation of all CCDF funds awarded prior to a 102-477 Plan approval will continue to be reported to ACF on the ACF-696T financial reporting form. Similarly, program data on CCDF funds awarded prior to a 102-477 Plan approval must be reported on the ACF-700 data reporting form.

Obligation and Liquidation Periods:

Tribal Lead Agencies must obligate FY 2014 Tribal Mandatory and Discretionary Funds by September 30, 2015, and liquidate all funds by September 30, 2016 (with the exception of any FY 2014 CCDF funds approved by ACF for construction or major renovation, which must be obligated and liquidated by September 30, 2016).

Reallotted Discretionary Funds:

102-477 Tribes are required to notify ACF by April 1, 2014, if they will be unable to obligate any portion of their FY 2014 CCDF Discretionary Funds allotment by September 30, 2014. In accordance with 45 CFR 98.64(d), any portion of a Tribe's allotment of Discretionary Funds that is not required to carry out its plan in the period for which the allotment is made available shall be reallotted to other tribal grantees in proportion to their original allotments.

- If the total amount available for reallocation from all tribal CCDF grantees is \$25,000 or more, funds will be reallotted to other tribal grantees.
- If the total available is less than \$25,000, no reallocation will take place, and funds will revert to the Federal Government.
- If an individual reallocation amount to a Tribe is less than \$500, a reallocation award will not be issued to that Tribe.
- If a tribal CCDF grantee does not submit a reallocation report by the April deadline, a determination will be made that no funds are available for reallocation. Any funds reported to be available for reallocation after the April deadline shall revert to the Federal Government.

Application Process to Receive Reallotted Funds

Should FY 2014 Discretionary Funds become available for reallocation, the 477 Tribe must inform ACF whether or not it would like to receive these funds by checking either "Yes" or "No" in the "Request for FY 2014 Reallotted Tribal Discretionary Funds" box on Attachment A.

CCDF Withdrawal from 102-477 Plan:

If a Tribe decides to withdraw CCDF from an approved 102-477 Plan, the Tribal Chair must submit a letter to the 102-477 Lead Agency at DOI (with a copy to the Office of Child Care). The letter must indicate that the Tribe has decided to withdraw its CCDF funds from its existing 102-477 Plan, and it must specify the Tribe's approved 102-477 Plan period.

Note: The withdrawal will become effective no sooner than the beginning of the following fiscal year. In order to directly receive CCDF funding outside of 102-477 in fiscal year 2014, a Tribe must submit the required letter from the Tribal Chair (described above), as well as a completed CCDF Tribal Plan Preprint, no later than July 1, 2013. If approved, the new CCDF plan will cover

a 2-year period of October 1, 2013, to September 30, 2015 (consistent with the current plan period for all CCDF tribal plans). CCDF will remain as part of the Tribe's approved 102-477 Plan through September 30, 2013.

Audits:

As indicated at 45 CFR 98.65, each CCDF Lead Agency is subject to audit requirements in accordance with Office of Management and Budget (OMB) Circular A-133 and the Single Audit Act Amendments of 1996. Tribes that consolidate CCDF under Pub. L. 102-477 will be audited based on requirements in the A-133 Compliance Supplement for the Child Care and Development Block Grant (CFDA 93.575) and Child Care Mandatory and Matching Funds of the Child Care and Development Fund (CFDA 93.596).

**Paperwork
Reduction Act:**

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The information collection required under this Program Instruction is approved under OMB Number 0970-0198, which expires May 31, 2016.

Inquiries:

Questions related to the CCDF program should be directed to the appropriate ACF Regional Office (Attachment D). For questions about completing a consolidated 102-477 Plan, please contact Francis Dunne at (907) 271-4014 or francis.dunne@bia.gov at the U.S. Department of the Interior, Office of Indian Energy and Economic Development.

/s/

Shannon L. Rudisill
Director
Office of Child Care

Attachments:

A – 102-477 Child Count Declaration

B – List of Assurances and Certifications

C - CCDF Statutory and Regulatory Requirements That Will Not Be Waived

D - ACF Regional Offices